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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,585	11/03/2000	Wolfgang Nichoff	635.324US01	6177
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ALTERA LAW GROUP, LLC 6500 CITY WEST PARKWAY SUITE 100 MINNEAPOLIS, MN 55344-7704				
			EXAMINER WOO, STELLA L	
			ART UNIT 2643	PAPER NUMBER 14

DATE MAILED: 12/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,585

Applicant(s)

NIEHOFF ET AL.

Examiner

Stella L. Woo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9,11,12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2-3, it is unclear as to whether or not the phrase “in particular acoustic irradiation and/or illumination systems” is to be considered as a claim limitation.

In claim 1, line 4 and claim 9, line 2, it is unclear as to whether or the not “(audio)” is a claim limitation.

In claim 1, lines 9-10, the phrase the phrase "for instance" renders the claim indefinite because it is unclear whether the limitation following the phrase is part of the claimed invention. See MPEP § 2173.05(d).

In claim 8, “the mobile receiver” (line 2), “the evaluation unit” (lines 2-3) and “the mobile transmitter” (line 3) lacks proper antecedent basis.

Claim 10 is indefinite for the same reasons as claim 8.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by the French publication submitted by Applicant FR 2747003 A (hereinafter FR '003).

Regarding claim 1, FR '003 discloses an installation (tracking system) for controlling aids (spotlight and loudspeakers; Abstract) with a control unit (processing unit 9) to which at least one mobile object (mobile subject actor 2) as well as one or more aids to be controlled (motors 11 and 16 are controlled to enable a spotlight to follow a moving subject 2; Abstract);

characterized in that a locating device is provided (ultrasound transmitter 1 is fixed to the moving subject to indicate the relative position of the moving subject so that the spotlight can follow the subject; Abstract).

Regarding claim 7, the processing unit 9 receives derived position signals from several ultrasound receivers 4, 5, and 14 (Abstract).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR '003 in view of Mogavero et al. (US 4,067,015, hereinafter "Mogavero").

FR '003 differs from claims 2-3 in that it uses ultrasound transmission rather than radio transmission for deriving the position signal. However, Mogavero teaches the desirability of using a radio frequency system rather than an ultrasonic system to determine the position of a moving performer in an indoor environment in order to avoid the difficulties caused by the

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reflection of sonic signals from floors and other structures (col. 3, lines 30-37). Therefore, it would have been obvious to an artisan of ordinary skill to replace the ultrasonic system of FR '003 with a radio frequency system, as taught by Mogavero, in order to more reliably detect the position of a moving performer.

Regarding claims 4 and 6, Mogavero teaches the selection of radio frequencies in the range of around 100 MHz (col. 4, lines 27-30).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over FR '003 in view of Metcalf (US 2001/0040671 A).

FR '003 differs from claim 5 in that it does not specify using GPS to track the location of the actor. However, Metcalf teaches the desirability of using a GPS device to monitor the movement of a performer (page 12, paragraph 74) such that it would have been obvious to an artisan of ordinary skill to use such well known GPS location monitoring, as taught by Metcalf, as an alternative to the use of ultrasound in FR '003 for tracking the position of the moving actor.

8. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR '003 in view of Dowling, Jr. et al. (US 2003/0222587 A1, hereinafter "Dowling").

FR '003 differs from claims 8-11 in that it does not specify tracking an actor using a microphone. However, Dowling teaches the desirability of tracking a speaker by tracking the motion of the microphone being used (paragraphs 28, 55, 61-62, 67-68) such that it would have been obvious to an artisan of ordinary skill to track the moving actor of FR '003 by monitoring the position of an object used, such as a microphone, as taught by Dowling.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bauer, Whitright et al., Fischer et al., and Kita et al. show other system which track a moving performer in order to control various devices. Ozaki et al. and Frecska show other systems which selectively control speakers.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stella L. Woo whose telephone number is (703) 305-4395. The examiner can normally be reached on Monday-Tuesday, Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.



Stella L. Woo
Primary Examiner
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